

20
10/4/00
w/j

ORIGINAL

David L. Schwalm, Esquire
Thomas, Thomas & Hafer, LLP
Attorney I.D. # 32574
305 North Front Street
P. O. Box 999
Harrisburg, PA 17108-0999
(717) 255-7643

Attorneys for Defendants Thomas Duran; Bruce Cluck; Debra Hankey; John Jennings; William Orth; Rae Hientzelman; David Vazquez; and Briton Shelton

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JASON ERIC BENSON,
Plaintiff

v.

CIVIL ACTION

NO. 1:00-CV-01229

THOMAS DURAN; BRUCE CLUCK;
DEBRA HANKEY; JOHN JENNINGS;
WILLIAM ORTH; RAE HIENTZELMAN;
RONALD LONG and WILLIAM ELLIEN;
BRITON SHELTON; DAVID VAZQUEZ;
WILLIAM J. STEINOUR;
Defendants

Maggie Blewitt

FILED
HARRISBURG, PA

OCT 03 2000

MARY E. D'ANDREA, CLERK
PER *gj* DEPUTY CLERK

ANSWER OF THE ADAMS COUNTY PRISON DEFENDANTS
TO THE PLAINTIFF'S AMENDED COMPLAINT

PARTIES

AND NOW, Defendants Thomas Duran, Bruce Cluck, Debra Hankey, John Jennings, William Orth, Rae Hientzelman, Briton Shelton and David Vazquez, hereinafter referred to as the Adams County Prison Defendants, by their attorneys, Thomas, Thomas & Hafer, LLP, file this Answer to the Amended Complaint, as follows:

1. Although it is admitted that Plaintiff Jason E. Benson was held at the Adams County Prison during a portion of the time referred to in the Complaint, the

Adams County Prison Defendants deny that Plaintiff was held at the Adams County Prison at all times described in the Complaint.

2. Although it is admitted that Defendant Thomas Duran was the warden of the Adams County Prison, he is no longer employed by Adams County.

3. Admitted that Bruce Cluck is the deputy warden at the Adams County Prison. By way of answer, Debra Hankey is the current warden of the Adams County Prison.

4. Although it is admitted that Defendant John Jennings is a lieutenant at the Adams County Prison, William Orth is no longer employed by Adams County.

5. Admitted.

6. Admitted.

7. The Adams County Prison Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 7, and proof thereof is demanded.

8. The Adams County Prison Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 8, and proof thereof is demanded.

FACTS

1. Admitted.

2. Denied as stated. When Plaintiff was returned to the Adams County Prison from the hearing on August 27, 1999, Plaintiff was required to submit to a strip search pursuant to Adams County Prison policy. Pursuant to that policy, all inmates

that were returned from Court at that time were required to submit to strip searches. The Adams County Prison Defendants deny the remaining averments of Paragraph 2.

3. Denied as stated. Despite repeated requests, Plaintiff refused to submit to a strip search as required by Adams County Prison policy. Plaintiff furthermore became abusive toward the officers present at that time. It is admitted that Warden Duran, Deputy Wardens Cluck and Hankey and Sergeant Hientzelman were called and brought a video camera to the intake area.

4. Denied as stated. When Plaintiff refused an additional request to submit to a strip search, Lieutenant Jennings did spray Plaintiff in the face with O.C. spray. At that time, Plaintiff began to slam his head on a desk and computer screen. In order to protect the inmate and others, Plaintiff was restrained by the officers present. The Adams County Prison Defendants specifically deny that excessive force was used to restrain Plaintiff. The Adams County Prison Defendants further deny the remaining averments of Paragraph 4 to the extent that they are not admitted herein.

5. Denied as stated. Although it is admitted that the Plaintiff was then taken to a shower stall, Plaintiff continued to yell, use profane language and began to spit at correctional officers present. As a result of his behavior, the Adams County Prison Defendants again restrained Plaintiff. Adams County Prison Defendants specifically deny that they have no medical facilities. By way of answer, it is admitted that Plaintiff was taken to the Gettysburg Hospital Emergency Room at that time. The Adams County Defendants do believe that a correct copy of the Gettysburg Hospital Emergency Room records is attached to the Amended Complaint as Exhibit D. At the time of his examination at the emergency room on August 27, 1999, Plaintiff was in no

acute or severe distress and had only superficial injuries. Adams County Prison Defendants specifically deny that they used excessive force on Plaintiff at any time.

6. Denied as stated. Although it is admitted that Plaintiff was returned to the Adams County Prison, the Adams County Prison Defendants are without knowledge or information as to the remaining averments of Paragraph 6.

7. Denied as stated. Although it is admitted that Plaintiff was taken to the Gettysburg Hospital on August 30, 1999, the remaining averments of Paragraph 7 are denied.

8. Denied. After reasonable investigation, Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 8 and proof there is demanded.

9. Denied. After reasonable investigation, Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 9 and proof there is demanded.

10. Denied. After reasonable investigation, Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 10 and proof there is demanded.

11. Denied. After reasonable investigation, Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 11 and proof there is demanded.

12. Denied. After reasonable investigation, Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 12 and proof there is demanded.

CLAIMS FOR RELIEF

1. Denied.
2. Denied.
3. Denied.
4. Denied. Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 4 and proof thereof is demanded.
5. Denied. Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 5 and proof thereof is demanded.

A2. Denied.

A3. Denied. Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph A3 and proof thereof is demanded.

A5. Denied. Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the averments contained in Paragraph A5 and proof thereof is demanded.

A6. Denied. Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the averments contained in Paragraph A6 and proof thereof is demanded.

B2. Denied. Adams County Prison Defendants are without knowledge or information sufficient to form a belief as to the averments contained in Paragraph B2 and proof thereof is demanded.

WHEREFORE, Defendants Thomas Duran, Bruce Cluck, Debra Hankey, John Jennings, William Orth, Rae Hientzelman, Briton Shelton and David Vazquez, respectfully request that the Plaintiff's Amended Complaint be dismissed and that judgment be entered in their favor.

AFFIRMATIVE DEFENSES

1. As an affirmative defense, Adams County Prison Defendants incorporate herein by reference, as if fully set forth at length, their Answers to Plaintiff's Amended Complaint.

2. Plaintiff fails to state a claim upon which relief can be granted.

3. Plaintiff failed to exhaust his available administrative remedies.

4. Plaintiff has not alleged facts sufficient to support his demands for relief.

5. Adams County Prison Defendants are entitled to qualified immunity in that they acted with a good faith belief that their actions were constitutional and such belief was reasonable under the circumstances.

6. Adams County Prison Defendants were at all times acting reasonably under the circumstances.

7. It is specifically denied that any act or omission on the part of Adams County Prison Defendants caused or contributed to any of Plaintiff's alleged injuries or damages.

8. Plaintiff's claims for injunctive and declaratory relief are moot since he is no longer an inmate at the Adams County Prison.

9. Adams County Prison Defendants can not be held liable for violation of Plaintiff's civil rights, which is specifically denied, and since they cannot be held liable under the doctrine of respondeat superior for the actions of others.

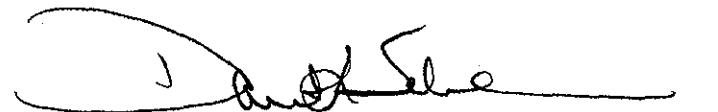
10. Plaintiff did not have a serious medical need as a result of his alleged condition for which the Adams County Prison Defendants can be held liable.

11. Adams County Prison Defendants did not show deliberate indifference to Plaintiff's medical condition.

WHEREFORE, Defendants Thomas Duran, Bruce Cluck, Debra Hankey, John Jennings, William Orth, Rae Hientzelman, Briton Shelton and David Vazquez, respectfully request that the Plaintiff's Amended Complaint be dismissed and that judgment be entered in their favor.

Respectfully submitted,

THOMAS, THOMAS & HAVER, LLP



David L. Schwalm, Esquire
Attorney I.D. # 32574
305 North Front Street
P. O. Box 999
Harrisburg, PA 17108-0999
(717) 255-7643

Date: 10/3/00

Attorneys for Adams County Defendants

CERTIFICATE OF SERVICE

I, David L. Schwalm, Attorney for Thomas, Thomas & Hafer, LLP, hereby certify that a copy of the foregoing document was served upon the following, by enclosing a true and correct copy in an envelope addressed as follows, postage prepaid:

Jason E. Benson
Inmate # DS-6483
SCI Smithfield
P. O. Box 999
1120 Pike Street
Huntingdon, PA 16652

Jason Kantor
Post & Schell, PC
237 N. Prince Street
Lancaster, PA 17603

James D. Young
301 Market Street
Harrisburg, PA 17101

THOMAS, THOMAS & HAFFER, LLP

David L. Schwalm, Esquire
Attorney I.D. # 32574
305 North Front Street
P. O. Box 999
Harrisburg, PA 17108-0999
(717) 255-7643

Date: 10/3/00
109068.1

Attorneys for Adams County Defendants